

IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

Applicant(s): Stuart Arthur BATEMAN, et al.

U.S. Serial No.: 10/533,579

U.S. Filing Date: May 2, 2005

Group: not yet assigned

INTERNATIONAL APPLICATION NO.:
PCT/AU2003/001443

Our Ref.: B-5691PCT 622624-8

INTERNATIONAL FILING DATE:
31 October 2003

For: "FIRE RESISTANT MATERIAL"

Date: January 31, 2007

MAIL STOP PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Office of PCT Legal Administration
Mr. Daniel Stemmer

RENEWED PETITION UNDER 37 CFR 1.497(d)

Dear Sir:

In response to the Decision on Petition Under 37 CFR 1.497(d) mailed on November 1, 2006 (copy enclosed), please find enclosed herewith three separate Declarations executed by James Macon PETERSON, Matthew Allen ANGLIN, and Barbara Lord MACLEAN.

Also, please find enclosed herewith two Statements Under 37 CFR 3.73(b) by the Assignee's.

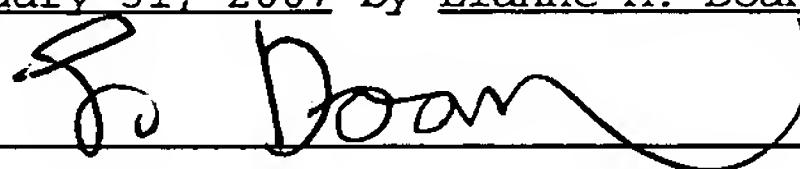
The Applicants believe that the enclosed statements satisfies Item (1) and Item (3) as described in the Decision on Petition and respectfully request that the Petition Under 37 CFR 1.497(d) be granted upon consideration of the enclosed evidence.

Please find enclosed a PETITION AND FEE FOR EXTENSION OF TIME (37 CFR 1.136(a)) for a period of 1 month to respond to the Decision on Petition Under 37 CFR 1.497(d) mailed on November 1, 2006.

Renewed Petition Under 37 CFR 1.497(d)
USSN 10/533,579
January 31, 2007
Page 2

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to "MAIL STOP PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450", on January 31, 2007 by Lianne M. Doan.



Respectfully submitted,



Robert Popa
Attorney for Applicant
Reg. No. 43,010

LADAS & PARRY
5670 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90036
(323) 934-2300

Enclosure: Declarations of James Macon Peterson, Matthew Allen Anglin, and Barbara Lord Maclean (7 pages)
Assignee's Statements Under 37 CFR 3.73(b) (2 pages)
Petition and Fee for Extension of Time (1 page)



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES CA 90036-5679

In re Application of
BATEMAN et al.
Application No.: 10/533,579
PCT No.: PCT/AU2003/001443
Int. Filing Date: 31 October 2003
Priority Date: 31 October 2002
Attorney Docket No.: B-5691PCT 622624-8
For: FIRE RESISTANT MATERIAL

DECISION ON PETITION

UNDER

37 CFR 1.497(d)

This decision is in response to applicants' "REQUEST TO DELETE INVENTORS" filed in the United States Patent and Trademark Office (USPTO) on 07 March 2006 and the supplemental submission filed 31 March 2006, which have properly been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 31 October 2003, applicants filed international application PCT/AU2003/001443, which designated the United States and claimed a priority date of 31 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 13 May 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 May 2005 (30 April 2005 being a Saturday).

On 02 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and an unsigned declaration of inventors.

On 07 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 07 March 2006, applicants filed a "REQUEST TO DELETE INVENTORS", which has properly been treated as a petition under 37 CFR 1.497(d), and the surcharge under 37 CFR

1.492(h). The petition was accompanied by a declaration of Matthew Allen Anglin, a declaration of James Macon Peterson, and a declaration of inventors identifying Stuart Arthur Bateman, Matthew Jon Partlett, and Dong Wang Yu as the inventors and signed by them.

On 31 March 2006, applicants filed a supplemental submission which included a declaration of Barbara Lord MacLean.

On 27 July 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration of inventors filed 07 March 2006 did not identify all of the inventors.

DISCUSSION

The NOTIFICATION OF DEFECTIVE RESPONSE mailed 27 July 2006 was mailed in error (i.e., applicant's petition under 37 CFR 1.497(d) had not been taken into account) and is hereby VACATED.

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have not satisfied item (1). The statements by the three deleted inventors each fail to state that the error in inventorship in the international application occurred without deceptive intention but not that the error occurred without deceptive intention *on his or her part*.

As to item (2), the processing fee of \$130 has been charged to Deposit Account No. 12-0415.

Item (3) has not been satisfied. No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

CONCLUSION

The request under 37 CFR 1.497(d) is DISMISSED without prejudice for the reasons set forth above.

The NOTIFICATION OF DEFECTIVE RESPONSE mailed 27 July 2006 is VACATED for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Stuart Arthur BATEMAN,
et al.)
Serial No.: 10/533,579) Group: unknown
U.S. Filing Date: May 2, 2005) Examiner: unknown
International Application No:
PCT/AU2003/001443)
International Filing Date:
31 October 2003) Our Ref.: B-5691PCT 622624-8
For: "FIRE RESISTANT MATERIAL")

DECLARATION OF JAMES MACON PETERSON

I, James Macon Peterson, hereby state that I have reviewed the claims as filed in the subject U.S. patent application no. 10/533,579, which is the U.S. national stage of International Application No. PCT/AU2003/001443.

I believe that I am not an inventor of the subject matter claimed in the above-identified patent applications and, therefore, request my name be deleted as an inventor in those applications..

On information and belief, I further believe that any error in inventorship in the international application occurred without any deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

Declaration of ~~Mervyn Thomas~~ USSN 10/533,579
USSN 10/492,888 10/533,579
Page 2

James Macon Peterson *jm*

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: Dec 18, 2006

Signature: James Macon Peterson

Printed name of the person making this statement James Macon Peterson

Post Office Address 420 SW 183rd Street

Seattle, Washington 98166

INDIVIDUAL ACKNOWLEDGMENT

State/Commonwealth of Washington } ss.
County of King }

On this the 18 day of December, 2006, before
me, Grace B. White, the undersigned Notary
Public, personally appeared James Macon Peterson
Name(s) of Signer(s)

personally known to me - OR -

proved to me on the basis of satisfactory
evidence

to be the person(s) whose name(s) is/are
subscribed to the within instrument, and
acknowledged to me that he/she/they
executed the same for the purposes therein
stated.

WITNESS my hand and official seal.

Grace B. White
Signature of Notary Public

Notary

Other Required Information (Printed Name of Notary, Residence, etc.)

Place Notary Seal and/or Any Stamp Above

OPTIONAL

Although the information in this section is not required by law, it may prove valuable to
persons relying on the document and could prevent fraudulent removal and reattachment
of this form to another document.

Right Thumbprint
of Signer
Top of thumb here

Description of Attached Document

Title or Type of Document: Patent Trademark

Document Date: 5-2-05 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: Stuart Arthur BATEMAN, et al.Application No./Patent No.: 10/538,579 Filed/Issue Date: May 2, 2005Entitled: "FIRE RESISTANT MATERIAL"Commonwealth Scientific & Industrial Research Org. a Australian Corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. the assignee of the entire right, title, and interest; or2. an assignee of less than the entire right, title and interest.The extent (by percentage) of its ownership interest is 50 %

In the patent application/patent identified above by virtue of either:

A. An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 018709, Frame 0216, or for which a copy thereof is attached.**OR**B. A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached. Additional documents in the chain of title are listed on a supplemental sheet. Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

19 Dec 2005

Date

613 98203022

Telephone number

Typed or printed name

Signature

JOHN HERBERT WALKER
Authorised Officer

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Stuart Arthur BATEMAN,
et al.)
Serial No.: 10/533,579) Group: unknown
)
-- Filing Date: May 2, 2005) Examiner: unknown
International Application No:
PCT/AU2003/001443)
International Filing Date:
31 October 2003) Our Ref.: B-5691PCT 622624-8
)
"FIRE RESISTANT MATERIAL"

DECLARATION OF MATTHEW ALLEN ANGLIN

I, Matthew Allen Anglin, hereby state that I have reviewed the claims as filed in the subject U.S. patent application no. 10/533,579, which is the U.S. national stage of International Application No. PCT/AU2003/001443.

I believe that I am not an inventor of the subject matter claimed in the above-identified patent applications and, therefore, request my name be deleted as an inventor in those applications..

On information and belief, I further believe that any error in inventorship in the international application occurred without any deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

Declaration of Matthew Allen Anglin
USSN 10/533,579
Page 2

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 1-29-07

Signature: 

Printed name of the person making this statement Matthew Allen Anglin
Post Office Address 6403 Linden Avenue North,
Seattle, Washington 98103

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Stuart Arthur BATEMAN,)
et al.)
Serial No.: 10/533,579) Group: unknown
U.S. Filing Date: May 2, 2005) Examiner: unknown
International Application No:)
PCT/AU2003/001443)
International Filing Date:)
31 October 2003) Our Ref.: B-5691PCT 622624-8
For: "FIRE RESISTANT MATERIAL")

DECLARATION OF BARBARA LORD MACLEAN

I, Barbara Lord MacLean, hereby state that I have reviewed the claims as filed in the subject U.S. patent application no. 10/533,579, which is the U.S. national stage of International Application No. PCT/AU2003/001443.

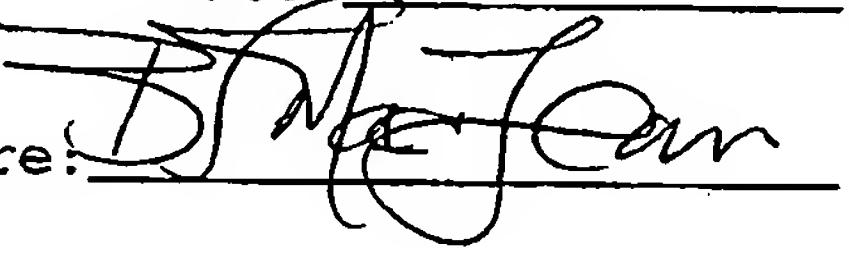
I believe that I am not an inventor of the subject matter claimed in the above-identified patent applications and, therefore, request my name be deleted as an inventor in those applications..

On information and belief, I further believe that any error in inventorship in the international application occurred without any deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

Declaration of Barbara Lord MacLean
USSN 10/533,579
Page 2

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 5 January 2007
Signature: 

Printed name of the person making this statement Barbara Lord MacLean
Post Office Address 9824-NE 13th Street
Bellevue, Washington 98004

STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: Stuart Arthur BATEMAN, et al.Application No./Patent No.: 10/533,579 Filed/Issue Date: May 2, 2005Entitled: "FIRE RESISTANT MATERIAL"THE BOEING COMPANY, a United States of America corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. the assignee of the entire right, title, and interest; or

2. an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is 50 %

In the patent application/patent identified above by virtue of either:

A. An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 018709, Frame 0216, or for which a copy thereof is attached.

OR

B. A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

 Additional documents in the chain of title are listed on a supplemental sheet. Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

5 January 2007
(206) 662-0558
Telephone number

B. L. MacLEAN

B. L. MacLean

Signature
SR MANAGER

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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